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Image 1771

Docket No. 3620-4014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Hiroshi Kajiyama et al.

Group Art Unit: 1771

Serial No.: 10/018,732

Examiner: Jenna-Leigh Befumo

Filed: December 18, 2001

For: POLYLACTIC ACID RESIN, TEXTILE PRODUCTS OBTAINED THEREFROM
AND PROCESSES FOR PRODUCING TEXTILE PRODUCTS

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AMENDMENT AND RESPONSE TO
RESTRICTION REQUIREMENT
PURSUANT TO 37 C.F.R. § 1.121

Sir:

This is in response to the Office Action issued October 8, 2003 for which a response period of one month was set. The present response is timely.

ELECTION

Applicants traverse the restriction requirement as being not in accordance with 35 U.S.C. §§121 and 372. However, in compliance with the rules, Applicants elect the invention of Group II, claims 5-10.

RESPONSE TO RESTRICTION

The Examiner imposed restriction under 35 U.S.C. §§ 121 and 372. Her position is that the claims are not so linked as to form a single general inventive concept under PCT Rule 13.1 requiring unity of invention. The groups were delineated as follows:

- I. Claims 1-4 and 11-13, drawn to a polylactic acid resin comprising at least 95% or more of the L-isomer.
- II. Claims 5-10, drawn to a polylactic acid multifilament comprising at least 98% or more of the L-isomer.
- III. Claims 14-17, drawn to a polylactic acid monofilament comprising at least 95% or more of the L-isomer.
- IV. Claims 18-25, drawn to a polylactic acid flat yarn comprising at least 95% or more of the L-isomer.
- V. Claims 26-33, drawn to a polylactic acid false twisted yarn comprising a monomer content in the polylactic acid of 0.5% or less.
- VI. Claims 34-39, drawn to a polylactic acid binder yarn/fiber comprising 90% or more of the L-isomer.
- VII. Claims 40-43, drawn to a non-woven fabric made from a sheath/core fiber comprising polylactic acid components.

It is the Examiner's position that the claims as grouped above lack a general inventive concept because each group of claims recite different technical features. It was pointed out that claims 5-10 are directed to a multifilament comprising at least 98% L-polylactic acid. Whereas the resin of Group I claims comprise at least 95% L-polylactic acid.

The Examiner also pointed out that the claims of Group V are directed to a false twisted yarn wherein the monomer content is less than 0.5% and the claims of Group VI are directed to a binder yarn/fiber comprising 90% or more of L-polylactic

acid and Group VII claims are directed to a non-woven fabric made of a sheath/core fiber comprising polylactic acid components.

Applicants traverse the restriction requirement as being improper and request the withdrawal of the requirement for the following reasons. The present application is a US application and should be examined under US law. Even if the PCT rules apply, the rules under the PCT states that restriction can be imposed if there is lack of a general inventive concept or unity of invention. In the present application the invention of the claims is of to a polylactic acid comprising at least 95% of the L-isomer and the application of this polymer in the making of fibers, yarns and fabrics. The fibers are multifilaments, monofilaments, flat yarn, binder yarn, false twisted yarn and a non-woven fabric with a sheath/core fiber structure. Thus, there is a core inventive concept. This is supported by the Examiner's statement regarding the Matsui et al reference, US 6,174,602.

Under 35 U.S.C. § 121, claims may be restricted if the groups of claims are patentably distinct. In the present case, the claims are linked by the fact that the fibers are made of a polylactic acid with at least 95%, the yarns are made from such fibers. Since the claims are linked, they should be examined together. Moreover, there is no burden of search for the groups delineated. Thus, the requirement is improperly imposed and should be withdrawn.

Moreover, a review of the claims show that there are 75 claims in the application and the restriction requirement only applies to 43 claims. The claims can be summarized as follows:

Claims 1-4 are directed at the resin itself;

Claims 5-13 are directed to a multifilament made of the resin of claims 1-4 and a process for making such multifilaments;

Claims 14-15 are directed to a staple fiber made of the resin of claims 1-4;

Claims 16-20 are directed to a monofilament made of the resin of claims 1-4 and a process for making such monofilaments;

Claims 21-44 are directed to a flat yarn made of the resin of claims 1-4 and a process for making such yarn;

Claims 45-65 are directed to a false-twist yarn made of the resin of claims 1-4 and a process for making such yarn;

Claims 66-72 are directed to a binder fiber made of the resin of claims 1-4 and a process for making such fiber;

Claims 72-75 are directed to a non-woven fabric made from a sheath/core fiber made of the resin of claims 1-4 and a process for making such yarn.

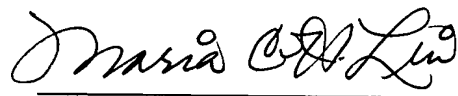
Thus, the claims in the restriction requirement do not correspond to the claims in the application and the basis for the groups in the restriction requirement is not entirely clear. The requirement should be withdrawn.

Applicants believe that at least the claims directed to the resin and the claims directed to the fibers and yarns made therefrom should be examined together since they are of one single general inventive concept.

The courtesy extended by the Examiner during the telephone interview is deeply appreciated.

Respectfully submitted,

Dated: December 8, 2003



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